

STATE WATER RESOURCES CONTROL BOARD
ORPHAN SITE CLEANUP FUND GRANT GUIDANCE
FOR GRANTS FUNDED WITH FEDERAL LEAKING
UNDERGROUND STORAGE TANK FUNDS PURSUANT TO THE
AMERICAN RECOVERY & REINVESTMENT ACT OF 2009
(Guidance For Public Agencies)



January 2010

Health and Safety Code section 25299.50.2 established the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund (Orphan Site Cleanup Fund or OSCF) to address petroleum contamination from underground storage tanks (USTs) at sites that qualify as brownfields. This guidance document has been provided to assist eligible public agency applicants in complying with state and federal requirements for OSCF grant agreements when grants are funded with funds from the United States Environmental Protection Agency (U.S. EPA) under the American Recovery and Reinvestment Act of 2009 (ARRA). Specifically, this document is intended to provide general grant information and information regarding the grant process, procurement requirements, and ARRA-specific requirements for public agency applicants. This guidance is not a regulation and may not be cited as legal authority.

Section I – General Grant Information

Grant Funding

Eligible OSCF applicants will receive grant funding based on their readiness to move forward with response actions and availability of funds. Pursuant to the conditions for use of federal money from the U.S. EPA under the ARRA, OSCF funds may be used for eligible response costs incurred on and after July 15, 2009.

There are two types of grants, an assessment grant and a cleanup grant. An applicant may receive an assessment grant, cleanup grant, or both an assessment grant and a cleanup grant.

Assessment Grants provide funding for response actions that characterize, assess, and investigate an unauthorized release from a petroleum UST. These actions include, but are not limited to, a preliminary site assessment, soil and water investigation, and the preparation of a corrective action plan as defined in accordance with California Code of Regulations, chapter 16, article 11. Assessment grants may also provide funding for UST removal, free product removal, and limited soil excavation.

Cleanup Grants provide funding for response actions that carry out cleanup activities and include, but are not limited to, implementing a corrective action plan and verification monitoring. Cleanup grants will be awarded once an applicant demonstrates that a corrective action plan is complete and approved by the regulatory agency overseeing the response actions at the site or the applicant demonstrates that response actions are necessary during the site development process and are necessary to protect human health, safety, and the environment.

Public agency grantees issued OSCF grants using ARRA funds must comply with both federal and state requirements, including federal procurement requirements in 40 Code of Federal Regulations (CFR) part 31 and ARRA-specific reporting and transparency requirements regarding job creation. Prior to receiving an OSCF grant using ARRA funds, applicants must certify that they have completed the OSCF online training course on fraud, waste, and abuse. (Applicants who do not have access to the internet may request a paper copy of the training course.) All OSCF grantees that receive ARRA funding may be subject to audit and/or investigation by the United States Office of Inspector General and/or the California Office of Inspector General. It is the grantee's responsibility to be aware of and comply with all of the terms and conditions in the grantee's Grant Agreement. Failure to comply may result in termination of the Grant Agreement and/or prosecution.

Section II – Grant Process and Procurement Guidance for Public Agencies

Grant Agreement Process

1. Pre-Grant Letter

Eligible public agency applicants who are prepared to move forward with response actions will be sent a pre-grant agreement package that includes a complete copy of the applicable grant agreement template with all of the exhibits. The applicant will be instructed on how to proceed with preparing pre-grant documents. Due to federal time limitations, the grant agreement will require the grantee to expeditiously proceed with and complete the project. All project work must be completed by September 30, 2011.

2. Pre-Grant Paperwork, Scope of Work, and Budget

Public agency applicants will submit the following pre-grant documents to their assigned grant manager for evaluation of grant agreement funding.

- ✓ Applicant's Data Universal Numbering System (DUNS) No. – Applicants must obtain a DUNS No. in order to receive ARRA funds. Go to <http://fedgov.dnb.com/webform/> to obtain a DUNS No.
- ✓ Applicant's Central Contractor Registration (CCR) No. – Applicants must obtain a CCR No. in order to receive ARRA funds. Go to <http://www.ccr.gov/> to obtain a CCR No.
- ✓ Fraud Prevention Training Self-Certification.
- ✓ Regulatory Agency approved workplan for site assessment or cleanup response work

- ✓ Scope of Work (SOW) (Exhibit A) based on approved regulatory workplan and an estimated Budget (Exhibit B) to implement SOW.
- ✓ Procurement package which includes RFQ/RFP, awarding document to prime consultant, contract with the prime consultant, and DBE forms.
 - The budget must include the cost of complying with all of the terms and conditions in the grant agreement, **including compliance with all of the following:**
 - **The Davis-Bacon Act.** (Refer to page 12 of “Guidance to Regions For Implementing the LUST Provision of the American Recovery and Reinvestment Act of 2009” dated June 2009. See link at: <http://www.epa.gov/oust/eparecovery/lustproguide.pdf> and Exhibit E of the grant agreement.)
 - **Disadvantaged Business Enterprise requirements.** (See DBE Guidance Document located at: http://www.waterboards.ca.gov/water_issues/programs/ustcf/oscf.shtml.)
 - **Buy American section 1065 requirements** (Refer to page 13 of “Guidance to Regions For Implementing the LUST Provision of the American Recovery and Reinvestment Act of 2009” dated June 2009. See link at: <http://www.epa.gov/oust/eparecovery/lustproguide.pdf>, if applicable.

Public agency grantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable federal law, the standards identified in 40 CFR section 31.36 and if applicable, 40 CFR section 31.38. (40 CFR § 31.36.)

Sole Source Vendor – The applicant must demonstrate that it has complied with 40 CFR section 31.36. If the applicant has not or will not go through a competitive procurement process and will use a sole source vendor instead, the applicant will need to provide the applicant’s sole source contract policy and an explanation of why the response work was not or will not be competitively bid.

NOTE: Request For Qualifications/Proposals (RFQ/RFP) must advise interested bidders that funding for this project has been provided or will be provided in full or in part by the American Recovery and Reinvestment Act of 2009 and the Orphan Site Cleanup Fund, through an agreement with the State Water Resources

Control Board (State Water Board). The State Water Board recommends that RFQs/RFPs also include specific information regarding the terms and conditions

All Disadvantaged Business Enterprise (DBE) good faith effort forms (DBE Forms 1 through 5) as identified in the DBE Guidance Document must be submitted with the procurement package. The DBE Guidance Document is located at:

http://www.waterboards.ca.gov/water_issues/programs/ustcf/oscf.shtml. DBE Form 6 must be completed upon grantee awarding of contract to prime contractor.

3. Underground Storage Tank Cleanup Fund (USTCF) Technical Review

USTCF Technical staff will: review the applicant's approved workplan; approve the proposed Scope of Work, Project Work Schedule, and Budget; and the procurement package.

4. Draft Grant Agreement Review

The applicant will receive an electronic copy of the draft grant agreement with the State Water Board approved Scope of Work, Project Work Schedule, and Budget. The applicant will be given ten days to either concur with the draft agreement or provide a written reason why the proposed Scope of Work, Project Work Schedule, or Budget should be modified. OSCF Program staff will work with USTCF Technical staff to review any requested modifications.

5. Final Grant Agreement

Once the grant agreement is negotiated, the grant manager will prepare and mail four original copies of the grant agreement to the applicant. All four original copies must have original signatures and all four signed original copies must be mailed back to the grant manager for execution.

6. Executed Grant Agreements

The grant manager will mail the grantee a copy of the executed grant agreement along with instructions for reimbursement of costs. The grantee may submit payment requests for a minimum of \$500 on an on-going basis from the execution date of the grant agreement up to the final payment date as identified in Exhibit B of the grant agreement.